

REMARKS

The Office Action dated February 25, 2004, has been received and reviewed.

Claims 1-21, 23-37, and 52-56 are currently pending and under consideration in the above-referenced application. The Office has indicated that claims 24-37 and 52-56 have been allowed and that claims 3-6, 15, 18-20, and 23 recite allowable subject matter.

Each of claims 1, 2, 7-14, 16, 17, and 21 stands rejected.

Claims 1, 12, and 20 have been amended. Claim 3 has been canceled without prejudice or disclaimer.

Reconsideration of the above-referenced application is respectfully requested.

Supplemental Information Disclosure Statement

Please note that a Supplemental Information Disclosure Statement was filed in the above-referenced application on November 21, 2003, but that the undersigned attorney has not yet received any indication that the references cited in the Supplemental Information Disclosure Statement have been considered in the above-referenced application. It is respectfully requested that the references cited in the Supplemental Information Disclosure Statement of November 21, 2003, be considered and made of record in the above-referenced application and that an initialed copy of the Form PTO/SB/08A that accompanied that Supplemental Information Disclosure Statement be returned to the undersigned attorney as evidence of such consideration.

Obviousness-Type Double Patenting Rejection

Claims 1, 2, 7-14, 16, 17, and 21 stand rejected under the judicially created doctrine of obviousness-type double patenting for reciting subject matter which is allegedly unpatentable over that recited in claims 1-37 of U.S. Patent 6,524,346 to Farnworth (hereinafter "Farnworth").

In obviousness-type double patenting rejections, the issue is whether or not pending claims are merely an obvious variant of one or more issued claims. Thus, a determination must be made as to whether or not pending claims would have been obvious in view of the subject matter

recited in the claims of the patent upon which the rejection is based. In this regard, M.P.E.P. § 804 II.B.1 provides:

A double patenting rejection of the obviousness-type is 'analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103' except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite*, 379 F.2d 594, 154 USPQ 29 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ 2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985).

That being stated, the standard for establishing and maintaining a rejection under 35 U.S.C. § 103(a) is set forth in M.P.E.P. § 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Independent claim 1 is directed to a method of fabricating a protective layer on a semiconductor device. The method of independent claim 1, as amended and presented herein, includes, among other things, forming a first layer of protective material in an unconsolidated state. Portions of the protective material of the first layer are selectively altered from an unconsolidated state to at least a semisolid state. The first layer of unconsolidated protective material and the protective material that is at least semisolid have substantially the same thicknesses.

Notably, the new language in amended independent claim 1 is similar to that of prior claim 3, which the Office indicated was allowable over Farnworth.

None of claims 1-37 of Farnworth recites that a layer of unconsolidated material and material that is at least semisolid have substantially the same thicknesses. Accordingly, it is respectfully submitted that, under the doctrine of obviousness-type double patenting, amended independent claim 1 is allowable over claims 1-37 of Farnworth.

Each of claims 2 and 7-11 is allowable, among other reasons, for depending either directly or indirectly from claim 1, which is allowable.

Independent claim 12 is drawn to a method of forming a layer of protective material on a specified area on an active surface of one or more selected dice of a plurality of semiconductor dice on a wafer. As amended and presented herein, independent claim 12 recites that the state of protective material of at least one layer is selectively altered from an unconsolidated state to at least a semisolid state, with protective material located over regions between at least two semiconductor dice remaining unconsolidated.

Notably, this subject matter previously appeared in claim 20, which the Office indicated is allowable over Farnworth. This is because none of claims 1-37 of Farnworth recites that unconsolidated material located over regions of a substrate, such as a wafer, that are between adjacent semiconductor dice may remain unconsolidated while other regions of layer of the unconsolidated material are selectively consolidated.

It is, therefore, respectfully submitted that amended independent claim 12 is allowable under the doctrine of obviousness-type double patenting.

Claims 13, 14, 16, 17, and 21 are each allowable, among other reasons, for depending either directly or indirectly from claim 12, which is allowable.

For these reasons, withdrawal of the obviousness-type double patenting rejection of claims 1, 2, 7-14, 16, 17, and 21 is respectfully requested.

Allowable Subject Matter

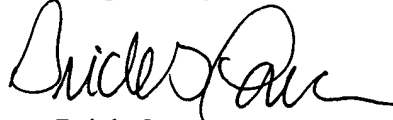
The allowance of claims 24-37 and 52-56 and the indication that claims 3-6, 15, 18-20, and 23 recite allowable subject matter are gratefully acknowledged. Independent claim 1 has been amended to incorporate limitations similar to those of prior claim 3, while independent

claim 12 has been amended to include limitations similar to those of prior claim 20, while removing other limitations.

CONCLUSION

It is respectfully submitted that each of claims 1, 2, 4-21, 23-37, and 52-56 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



Brick G. Power
Registration No. 38,581
Attorney for Applicants
TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: May 25, 2004

BGP/nj:rmh
Document in ProLaw